

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

03 APR 11 PM 2:06
DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

Case No. 8:03-cr-77-T-30TBM

GHASSAN ZAYED BALLUT
HATIM NAJI FARIZ


ORDER

This cause came on for consideration without oral argument upon the Emergency Motion for Stay of Order of Release Pending Appeal to the District Court (Dkt. #80) filed by the United States of America. This Court has reviewed the Magistrate's Order (Dkt. #74) and finds that is well reasoned. The Eleventh Circuit, however, has held that a district court must review the case for detention *de novo*. See United States v. Gaviria, 828 F.2d 667, 670 (11th Cir. 1987).¹ Given the Magistrate's conclusion that a presumption existed that all the Defendants are a flight risk and a danger to the community, this Court **GRANTS** the government's motion (Dkt. #80) and **STAYS** the Order (Dkt. #74) allowing Defendants Ballut and Fariz to be released subject to certain conditions. The government will have until April 16, 2003 at 5:00 PM to file a Motion for Review of Release Order pursuant to 18

¹The Eleventh Circuit has stated that this Court need not conduct a *de novo* hearing. See id. at 670. This Court does not intend to redo the entire lengthy detention hearing. If this Court determines that additional evidence is necessary or that factual issues remain unresolved after reviewing any motions for review and the record from the detention hearing, this Court may conduct a further limited evidentiary hearing. See United States v. King, 849 F.2d 485, 490-91 (11th Cir. 1988). The parties should govern themselves accordingly in filing motions for review.

U.S.C. § 3145(a)(1). If the government fails to timely file a motion, this stay will be dissolved without further notice or order of this Court.

DONE and **ORDERED** in Tampa, Florida on this 11 day of April, 2003.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE


Copies furnished to:
All Counsel/Parties of Record
United States Marshal

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